

Appl. No. 10/817,354
Response dated 22th April 2005
Reply to Restriction Requirement action of 14-Apr-05

Response to Election/Restriction Communication; Election with Traverse

This election with traverse is made in response to the communication mailed from the Patent Office 14-Apr-05 (due for response without extension by 14-May-05), as best as that communication can be understood. The examiner states (copied below for handy reference):

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-22, drawn to an electrical resistive device for sensing hydrogen gas, classified in class 324, subclass 464.
 - II. Claims 23-30, drawn to a method of producing an electrical resistive device for sensing hydrogen gas, classified in class 427, subclass 304, 497, and etc.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the processes as claimed can be used to make a materially different product such as a semiconductor device, a printed circuit board, and etc.

The examiner further states that within this group, there are three patentably distinct species:

6. In the event the applicant elects group I, this group contains claims directed to the following patentably distinct species of the claimed invention:
 - (A): the species of FIGS. 1A-1E;
 - (B): the species of FIGS. 2A-2F; and
 - (C): the species of FIGS. 3A-3F.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, it appears that no claims are generic.

Focus on Claims to "electrical resistive device"

To move prosecution on the merits of the instant application forward, applicants have chosen to focus prosecution to those pending claims drawn to "an electrical resistive device" including claims grouped by the examiner into group(s) I (claims 1 – 22), species (A).